

**,IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

VERN E. MCGINNIS, JR.,	)	
	)	
Plaintiff,	)	Civil Action No. 24-73E
	)	
v.	)	District Judge Susan Paradise Baxter
	)	Magistrate Judge Maureen P. Kelly
NURSE KAREN HILL;	)	
CHCA JANA JORDAN, <i>Correctional</i>	)	Re: ECF No. 36
<i>Healthcare Administrator;</i>	)	
SUPERINTENDENT R. IRWIN,	)	
<i>Superintendent of SCI Forest; and</i>	)	
HEALTHCARE PROVIDER WELL PATH,	)	
<i>Health Care Provider,</i>	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Presently before the Court is an “Order to Show Cause for Preliminary Injunction, Motion to Compell, & Motion Requesting Sanctions to be Imposed,” filed by Plaintiff Vern E. McGinnis, Jr. (“Plaintiff”). [ECF No. 36]. The Court construes the filing as a combined motion for preliminary injunction and motion for sanctions. For the reasons that follow, motion is denied.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

Plaintiff is an inmate in the custody of the Pennsylvania Department of Corrections (“DOC”) and currently confined at that the State Correctional Institution at Forest (“SCI-Forest”) in Marienville, Pennsylvania.

In the Amended Complaint, Plaintiff alleges that he suffered a work-related injury on November 4, 2022. (ECF No. 21, at ¶ 9).<sup>1</sup> Specifically, Plaintiff states that he tore his bicep and

injured his left arm and hand. Id. at ¶¶ 2-3. He further alleges that Defendants were deliberately indifferent to his serious medical needs, subjected him to medical care in violation of the Eighth Amendment of the United States Constitution and that the treatment he received amounted to medical malpractice/professional negligence. Id. at ¶ 5.

On March 26, 2024, Plaintiff filed a Motion for Temporary Restraining Order. [ECF No. 10]. In the motion, Plaintiff complained of the medical care that he was receiving and delays in treatment. He also requested that the Court order Defendants to provide him with an MRI. Id.

On April 17, 2024, the undersigned conducted a hearing on Plaintiff's Motion for Temporary Restraining Order. At the conclusion of the hearing, the Court denied Plaintiff's request for issuance of a temporary restraining order. [ECF Nos. 14 and 16].

On May 21, 2024, Defendant Wellpath, LLC ("Wellpath") filed a Motion to Dismiss. [ECF No. 27]. On June 18, 2024, Defendants CHCA Jana Jordan, Superintendent R. Irwin and Nurse Kate Hill (collectively, "DOC Defendants") filed a Partial Motion to Dismiss Plaintiff's Amended Complaint. [ECF No. 33]. The Motions to Dismiss are currently pending before the Court.

On June 21, 2024, Plaintiff filed the instant combined motion seeking a preliminary injunction and sanctions. [ECF No. 36]. In the motion, Plaintiff states that, on June 11, 2024, he was transferred to the State Correctional Institution at Benner ("SCI-Benner") so that the MRI could be performed. Id. at 2. He complains that on June 12, 2024, the MRI technician arrived late and Plaintiff's MRI was not conducted because "it was too extensive and will take too long." Id. As a result, Plaintiff sought issuance of an injunction compelling Defendants to provide him with the MRI.

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In the Amended Complaint, Plaintiff asserts that the injury occurred on November 4, 2024. (ECF No. 21, at ¶ 9). In the initial Complaint, Plaintiff asserted that the injury occurred on November 4, 2022. (ECF No. 5, at ¶¶ 4 and 12. For purposes of this Memorandum Order, the Court recognizes November 4, 2022, as the alleged date of injury.

Wellpath and the Corrections Defendants filed responses in opposition to the instant motion. [ECF No. 38 and 40]. Wellpath asserted that the MRI was not cancelled but rescheduled to another date. [ECF No. 38]. The Corrections Defendants notified the Court that Plaintiff was scheduled for the MRI during the week of July 3, 2024, but, due to security reasons could not provide the exact date. (ECF No. 40, at 2). Thereafter, the Corrections Defendants filed a Notice on the docket on July 8, 2024, notifying the Court that the MRI of Plaintiff was conducted and completed on July 3, 2024. [ECF No. 41].

Despite receiving the MRI on July 3, 2024, Plaintiff signed a “Motion in Response to Defendant’s Opposition to Preliminary Injunction Motion to Compel and Motion for Sanctions” on July 11, 2024. [ECF No. 48]. In the response, docketed on July 16, 2024, Plaintiff continues to complain about and requests sanctions for the postponement of the MRI from June 12, 2024. Id.

**B. DISCUSSION**

As to Plaintiff’s request for a preliminary injunction compelling the provision of an MRI to Plaintiff, the motion is denied as moot. On July 3, 2024, Plaintiff was provided the MRI that he sought.

As to Plaintiff’s request for sanctions, the motion is denied. Plaintiff has not established that Defendants have violated any order of this Court nor any applicable Federal Rule of Civil Procedure. The Court finds there is no basis for the imposition of any sanction.

AND NOW, this 25th day of July, 2024,

IT IS HEREBY ORDERED that, for the foregoing reasons, Plaintiff’s motion at ECF No. 36 is DENIED.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if any party wishes to appeal from this Order he or she must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P., with the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219.

BY THE COURT,

A handwritten signature in cursive script, reading "Susan Paradise Baxter", written over a horizontal line.

SUSAN PARADISE BAXTER  
United States District Judge

cc: VERN E. MCGINNIS, JR.  
DG-2841  
SCI FOREST  
P.O. Box 945  
286 Woodland Drive  
Marienville, PA 16239

All counsel of record by Notice of Electronic Filing